

DEC 10 2004

J. DAVID NAVARRO, Clerk
By MELANIE ANDERSON
DEPUTY

LAWRENCE G. WASDEN
Attorney General

JOSEPH B. JONES
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8000
Facsimile: (208) 332-8099
Idaho State Bar #2768

Attorneys for Plaintiff

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO, DEPARTMENT OF)
FINANCE, SECURITIES BUREAU,)

Plaintiff,)

vs.)

PHILIP GARNER OLESON, and)
DAVID ABRAM HIGGINBOTHAM,)

Defendants.)

Case No. CV OC 0408610D

**DEFAULT JUDGMENT - DAVID
ABRAM HIGGINBOTHAM**

In this action, Defendant David Abram Higginbotham, having been duly served with the Complaint and Summons on November 17, 2004, and Defendant Higginbotham having failed to appear under I.R.C.P. 12(a), to plead or otherwise defend in this action, the legal time for answering having expired, the Default of the Defendant Higginbotham having been duly entered

according to law, based upon the Affidavit of Joseph B. Jones, the pleadings and records on file herein, and pursuant to the prayer of Plaintiff's Verified Complaint,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that:

1. Defendant David Abram Higginbotham has violated the Idaho Securities Act;
2. Defendant David Abram Higginbotham is permanently enjoined from engaging in any acts, practices, courses of business, omissions, and misrepresentations which would constitute violations of the Idaho Securities Act, Title 30, Chapter 14, Idaho Code.
3. Defendant David Abram Higginbotham is permanently enjoined from engaging in any of the following acts and conduct:

While engaged in or in connection with the offer, sale or purchase of any security:

- a. Employing any device, scheme or artifice to defraud any investors or prospective investors;
 - b. Making any untrue statement of a material fact or omitting to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading;
 - c. Engaging in any act, practice or course of business which operates or would operate as a fraud or deceit upon any person.
4. Defendant David Abram Higginbotham is prohibited from claiming the availability of, using, or offering or selling securities under any exemptions under

the Idaho Securities Act without receiving the prior written consent of the Director of the Idaho Department of Finance.

5. Plaintiff is awarded a money judgment against Defendant David Abram Higginbotham in the following amounts:

a. \$270,000.00, representing penalties against the Defendant, pursuant to Idaho Code § 30-1442(3)(b);

b. \$426,200.00, representing restitution to the investors named in the Complaint filed in this case, pursuant to Idaho Code § 30-1442(3)(a);

c. \$5,000.00, representing the Plaintiff's reasonable attorneys fees incurred, and \$2,500.00, representing the Plaintiff's costs of investigation, pursuant to Idaho Code § 30-1442(3)(c);

for a **TOTAL JUDGMENT** in the amount of **\$703,700.00**.

Dated this 9th day of December, 2004.

CHERI C. COPSEY

151

HONORABLE CHERI COPSEY
DISTRICT JUDGE

CLERK'S CERTIFICATE

I HEREBY CERTIFY that on this 10th day of Dec., 2004, I served a true and correct copy of the foregoing DEFAULT JUDGMENT by depositing the same in the United States Mail, postage pre-paid, in an envelope addressed to:

Joseph B. Jones
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

David Abram Higginbotham
8649 Franklin Road #132
Boise, Idaho 83709

MELANIE ANDERSON


Deputy Clerk